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# *THE INTERIM*

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AUGUST 2000

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## EDUCATION AND LOCAL GOVERNMENT COMMITTEE

Committee Meets in June...The Education and Local Government Committee met in the newly-restored Capitol Building on Friday, June 23. The major focus of the meeting was consideration of bill drafts that the Committee may wish to recommend to the 2001 Legislature.

Committee Hears About Indian Education...Denise Juneau, Marsha Davis, and Peggy Azure of the Office of Public Instruction (OPI) made a presentation to the Committee on the status of Indian education in Montana. American Indian students make up about 10% of the public school population in Montana. That is three to four percentage points higher than the proportion of American Indians in Montana's general population. However, many Indian students experience poor success in school. Thirty percent of all of the dropouts in Montana public schools are Indians. Of that number, only about one-third will obtain a GED. This means that a significant number of Indian students have little chance of finding a welcoming economic place in our society. Even though Indians make up about 6% of the Montana population and 10% of the school-age population, only 3% of the total student population in the Montana University System is Indian.

Why do Indian students experience such failure in our public school system, both K-12 and postsecondary? OPI has conducted extensive research in an attempt to identify barriers and devise solutions to breaking down those barriers. The identified barriers include a lack of accountability, breakdown in communication, lack of culturally relevant curriculum, low expectations by teachers, discouragement of parental involvement, racism, negative school environment, poorly prepared teachers, and not enough Indian teachers and administrators.

OPI is working to improve American Indian achievement through two programs: Title I School Improvement and GEAR UP. Title I School Improvement is a federal

program designed to assist schools with below average scores in reading and math. In Montana, 56 schools have been identified for improvement. Almost 70% of those schools have high percentages of Indian students. GEAR UP is a federal grant program that stands for "Gaining Early Awareness and Readiness for Undergraduate Programs". The purpose of the program is to prepare low income students for college by providing mentoring, counseling, and tutoring services.

Juneau also outlined the work of OPI in implementing House Bill No. 528. HB 528, passed by the 1999 Legislature, puts some "teeth" in Article X, Section 1, subsection (2) of the Montana Constitution that recognizes the cultural heritage of American Indians and commits the state of Montana to the preservation of Indian cultural integrity. As OPI and the Board of Public Education continue their work in revising the school accreditation standards, devising a student assessment system, and planning for professional development, both entities have involved tribal leaders and tribal education departments in the entire process.

Juneau completed her presentation with OPI's legislative recommendations for Indian education:

1. additional funding for Indian education;
2. funding for the Montana Advisory Council on Indian Education;
3. continued implementation of HB 528; and
4. development of formal communication mechanisms between the state and the tribes on education issues.

Committee Hears Tuition Report...The Committee heard a report from the Tuition Subcommittee. The Subcommittee stated that after much discussion and deliberation with numerous affected parties, it had come up with a recommendation for tuition legislation that implements the following proposals:

1. elimination of state's payment of tuition for children who cross a county line to attend school in another district;
2. payment of tuition by the state for children who must attend school out of district because of geographic barriers;
3. allowing a school district to waive tuition within a specific group while still charging tuition for another group; e.g. waiving tuition when parents have to pay while charging tuition when state or district has to pay; and
4. putting tuition payments into the over-BASE budget instead of the BASE budget, thus reducing tuition payments by half.

Kathy Fabiano of OPI made an additional suggestion that would allow the state to make tuition payments directly to the districts without involving the counties. After much discussion, the Committee asked staff to draft legislation incorporating all of the recommendations for final consideration in September.

Staff also reported on the issue of tuition for children who are placed in group homes outside of their district of residence. Many of these children require expensive services that can severely impact a district's budget. A working group is looking at ways to provide additional funding to these districts beyond ANB or tuition

payments. The working group is also looking at ways to address the new facilities for children that are being licensed by DPHHS but do not fit the definition of group home. In many of these facilities, children are placed by their parents, sometimes from out of state, and not by the state. The question then becomes who is financially responsible for their education. It was also suggested that the term "tuition" be replaced with "state payment".

Committee Considers Other Legislation... Committee staff presented three other legislative proposals for Committee consideration. Montana law allows a school district to declare a trustee candidate elected by acclamation, if there is only one candidate for the position, and cancel the election. The district can cancel the election 15 days before that date the election was to be held. However, the law also requires that absentee ballots be printed 20 days before an election. This year at least four school districts were forced to print the absentee ballots, even though five days later they were allowed to cancel the election. Printing the absentee ballots becomes an unnecessary expense for a school district. Staff recommended that the deadline for printing the absentee ballots be changed to conform with the 15-day notice for cancelling an election. The Committee recommended that Senator Ellis be asked to sponsor the legislation.

An issue regarding school district trustees also needs clarification, according to staff. Current law (20-3-305) allows any qualified voter in a school district to run for school trustee. However, another law (20-9-204) prohibits an employee of a school district from serving as a trustee. This sets up the possibility of a school district employee being elected to the school board but unable to serve after being elected. The Committee recommended that a cross-reference be inserted into the MCA so that potential candidates who are school district employees know that they cannot serve unless they resign from their job with the district.

Staff presented legislation that would allow a county commission to create single-member commissioner districts outside of the governmental review every 10 years. The Committee asked that the bill draft be held over for further discussion at the September meeting.

To Hold Final Meeting... The Committee voted to hold its final meeting of the interim on Friday, September 8. The meeting will take place in Room 102 of the Capitol Building. At that meeting, the Committee will make its final legislative recommendations and will invite OPI and the Board of Regents to present their legislative proposals for the upcoming legislative session.

## LOCAL GOVERNMENT SUBCOMMITTEE

Subcommittee Requests JPO Bill Draft... At its June 22 meeting, the Local

Government Subcommittee of the Education and Local Government Committee directed staff to draft legislation modifying the salary structure for chief and deputy juvenile probation officers (JPOs). As it is currently written, the bill incorporates all of the changes to the salary structure submitted to the Subcommittee by the Montana Juvenile Probation Officers' Association.

Juvenile probation officers are employed by district court judges, while their salaries are paid by the counties that make up the judicial districts in which they serve. The Subcommittee is aware that the Court Funding and Structure Committee (authorized in Senate Bill No. 184 and staffed by the Departments of Revenue and Administration) is examining state-funded district courts, which, if fully implemented, would take care of many of the JPO's salary concerns and render the bill draft largely unnecessary. A proposal has not yet been finalized by the Court Funding and Structure Committee, however, so the Subcommittee decided that it would continue with the HJR 38 study independent of other activities. What follows is a summary of what the draft legislation requested by the Subcommittee does.

For chief probation officers, the legislation:

1. removes the statutory minimum and maximum salaries for chief juvenile probation officers (CPOs);
2. ties the salaries of the CPOs to the salary of the District Court Judges, providing that a CPO's salary may not be less than 50% of a judge's salary and not more than 65% of a judge's salary;
3. retains the current cost-of-living and longevity allowances and provides that those allowances are in addition to the salaries determined by the minimum and maximum percentages;
4. allows for the longevity credit earned to remain with the officer, regardless of whether the officer transfers to another county or judicial district; and
5. requires that 50% of the CPO's salary be paid with state general fund dollars and that 50% be paid by the counties to which the CPO is assigned, using the allocation scheme for county payment already established in 41-5-104.

For deputy probation officers, the legislation:

1. changes the deputy's minimum salary from 60% of the chief's salary to 75% of the chief's salary;
2. retains the current cost-of-living and longevity allowances and provides that those allowances are in addition to the salaries determined by the minimum and maximum percentages;
3. allows for the longevity credit earned to remain with the officer, regardless of whether the officer transfers to another county or judicial district; and
4. retains language requiring that 100% of the deputies' salaries are paid by the counties that make up the judicial districts in which a deputy juvenile probation officer is appointed to act.

For more information on the HJR 38 study, contact Leanne Kurtz at 444-3064 or via e-mail at <lekurtz@state.mt.us>.

Subcommittee Considers HJR 29 Legislation...Staff presented a bill draft that standardizes the public notice provisions in Title 7. This bill draft is a result of the Subcommittee's work on House Joint Resolution No. 29. The Subcommittee asked for clarification on two issues: reducing the protest period from 20 to 15 days for certain governmental actions and requiring public notice if a public hearing is adjourned and rescheduled before any action is taken. Staff was asked to research these issues and report back to the next meeting of the Subcommittee.

Subcommittee Meets in July...The Subcommittee met again on July 28. Three items were on the agenda:

1. consideration of the JPO legislation;
2. consideration of the public notice legislation; and
3. Subcommittee discussion on local government in general, including a discussion on the optimal size of a county.

A more detailed report of the Subcommittee's July 28 meeting will be found in the September issue of *THE INTERIM*.

## BUSINESS, LABOR, AND AGRICULTURE COMMITTEE

Committee Considers Bill Draft...The Business, Labor, and Agriculture Committee met on June 22 to discuss the "Competitive Business Environment Act" bill draft and gather comments from interested persons about the issue of government competition with private vendors. The members directed staff to rework the draft to incorporate the comments made and provide additional bill drafts, if necessary, to ensure that the Committee is able to make a policy decision that effectively addresses the numerous issues raised over the past 12 months.

The Committee held a brief meeting on July 28 to review changes to the draft legislation on government competition with private vendors. Final recommendations will be made at the August meeting. For the most recent versions of the requested bill drafts, please refer to the Committee's website at [http://leg.state.mt.us/Interim\\_Committees/Business/index.htm](http://leg.state.mt.us/Interim_Committees/Business/index.htm).

To Hold Final Meeting...The Committee has tentatively scheduled its final meeting for August 24 and 25, in Room 152 of the State Capitol. Please contact Gordy Higgins at 444-3064, or via e-mail at <gohiggins@state.mt.us> to receive additional information.

## WORKERS' COMPENSATION SUBCOMMITTEE

Workers' Compensation Subcommittee Meets in June...After a long hiatus, the Workers' Compensation Subcommittee met June 23 in Helena. At the March meeting, the Subcommittee requested that the Department of Labor and Industry conduct a survey of selected states on indemnity claims for temporary total and permanent partial disabilities. Jerry Keck, Employment Relations Division, presented the results of the survey to the Subcommittee. The survey presented four scenarios based on level of wages (\$5.15, \$7.00, \$10.00, and \$20.00 an hour) for a specified claimant profile and type of injury. Comparison states included states with workers' compensation systems similar to Montana, NCCI regional states, and state fund only states. Based on state averages, Montana provides comparable benefits for the \$7-\$10 an hour worker, but below average benefits for the minimum wage worker and the \$20 an worker. When retraining benefits are included Montana is below average for all levels of wages.

Mike Taylor, National Council on Compensation Insurance, presented estimated cost impacts of certain incremental changes to benefit levels. For example, increasing the maximum weekly permanent partial disability benefit from 50% to 70%, 80%, 90%, and 100% of the statewide average weekly wage would increase system costs by 5.3% to 9.5%. Increasing the weekly permanent partial benefit period from 350 weeks to 400 weeks would increase system costs by 3.4%. Reducing the waiting period for receiving temporary total disability benefits from 6 days to 3 days with a retroactive payment for the waiting period would have a minimal impact.

The Subcommittee also reviewed safety management and loss control issues. Following a staff summary of study activities and stakeholder concerns, the Subcommittee requested that staff prepare the following bill drafts for Subcommittee consideration:

1. increase the weekly permanent partial disability rate from 66 2/3% to 75% of wages received at time of injury (the draft will also include increasing the maximum weekly benefit from 50% to 75% of the statewide average weekly wage);
2. reduce the temporary total disability waiting period from 6 days to 3 days and provide a retroactive payment if an injured worker cannot return to work within 14 days;
3. create a blue ribbon study committee to examine all aspects of Montana's workers' compensation system;
4. revise the prohibition of benefit payments during rehabilitation;
5. allow an employer to pay employees for working for another employer; and
6. provide additional funding for the Safety Bureau, Department of Labor and Industry, for mandatory public and voluntary private safety inspections.

Subcommittee To Meet in August...The Subcommittee is tentatively scheduled



to meet in conjunction with the full Business, Labor, and Agriculture Committee in August. The Subcommittee will review bill drafts and prepare recommendations for the full Committee.

## **CHILDREN, FAMILIES, HEALTH, AND HUMAN SERVICES COMMITTEE**

Committee Meets in June...The Children, Families, Health, and Human Services Committee held a meeting on Wednesday, June 21 in the Capitol Building. The Committee requested that a letter be sent in support of the DPHHS request for a state planning grant from the Health Resources and Services Administration (HRSA). The grant will help the Department address the issue of Montana's uninsured population. The Committee also decided to review the recommendations regarding the elimination of the assets tests for public assistance, where possible, and potential changes to the mental health system. The Committee also asked for updates on an area Agencies on Aging issue, a Disability Services Division report, Citizen Review Board legislation, FAIM Phase II, and a summary on DPHHS legislative proposals.

Final Meeting in August...The Committee has scheduled its final meeting on Thursday, August 17. The agenda will include the requests from the June 21 meeting and other reports required by House Bill No. 2. The Committee will also hear updates from the various mental health committees and the Montana Dental Access Coalition. Based on this information, the Committee will make its final recommendations, adopt an outline for its final report, and make suggestions for the next interim's study.

All Committee minutes, reports, and agendas and a link to Montana Dental Summit Information have been posted to the new interim committee website at: [http://leg.state.mt.us/interim\\_committees/](http://leg.state.mt.us/interim_committees/). For more information or if you wish to be placed on the interested persons list, please contact Susan Byorth Fox by phone at (406) 444-3597, by e-mail at <sfox@state.mt.us>, or by mail to Legislative Services Division, PO Box 201706, Helena MT 59620-1706.

## **DISTRICTING AND APPORTIONMENT COMMISSION**

Commission To Meet in September...The Districting and Apportionment Commission will hold its next meeting September 22 in conjunction with a training session on the new redistricting software. The main topic for the meeting will be the adoption of criteria for congressional and legislative redistricting.

For more information or if you wish to be placed on the interested persons list, please contact Susan Byorth Fox by phone at (406) 444-3597, by e-mail at <sfox@state.mt.us>, or by mail to Legislative Services Division, PO Box 201706, Helena MT 59620-1706.

## JUDICIAL REDISTRICTING STUDY

Subcommittee to Hold Organizational Meeting...The members of the Judicial Redistricting Subcommittee of the Legislative Council will tentatively meet on the afternoon of September 8 to select a presiding officer and to discuss a draft hypothetical redistricting plan with a small group of district court judges in order to prepare a potential in-depth proposal to the Montana Judges Conference in October. Most of the information to be presented at the meeting can be found on the legislative website at <http://leg.state.mt.us/Services/LegCouncil.htm>.

For more information or to be placed on the interested persons mailing list, please contact Susan Byorth Fox, Research Analyst, Legislative Services Division, (406) 444-3597 or by e-mail at <sfox@state.mt.us>.

## LAW, JUSTICE, AND INDIAN AFFAIRS COMMITTEE

Committee Forms Working Groups to Complete Interim Work...The Law, Justice, and Indian Affairs Committee has formed three working groups that will tackle the issues remaining before the Committee. After meeting and deliberating the remaining issues within their purview, the working groups will make recommendations to the full Committee. The working groups are Corrections/Courts, Sentencing, and Indian Affairs.

Corrections/Courts...The Corrections/Courts working group met on Wednesday, July 12 in Helena. The members are Senators Grosfield, Grimes, and Halligan and Representative Matthews. They were given an update on the progress of the HJR 37 study of women's prison issues. The members received an outline of the final report and a draft survey form to be distributed among the inmates at the Montana Women's Prison. The full Committee had requested that the inmates be surveyed in order to gather self-reported information on a number of topics, ranging from tribal affiliation and religion to family history and drug use. The working group approved the survey and requested assistance from the Department of Corrections in distributing the forms, collecting completed surveys, and maintaining confidentiality. Depending on the number of responses, some information from the survey will be incorporated into the final report. There is no way of knowing the extent to which

transported like cattle in box cars or forced to walk 258 miles from Great Falls to the Canadian border. Once in Canada, the Little Shell realized that the promise of a reservation was a sham, and by winter all of the "deported" Indians had made their way back to Montana. No further attempts at deportation were made. Instead, in 1915, the federal government reserved 55,000 acres on the Fort Assiniboine military reservation outside of Havre for the Chippewa, Metis, and Cree Indians. When the Rocky Boy's Reservation was created one year later, only 452 of the 658 applicants were granted enrollment; most of the nonenrolled were Little Shell and Metis. They were forced to resume their nomadic lifestyle, moving from place to place and living from hand-to-mouth.

Attempts in later years to settle the Little Shell on the Rocky Boy's Reservation were rebuffed mainly because of the limited land base of the Reservation. The communities of Great Falls, Helena, and Butte didn't want the Little Shell either for fear -- later determined to be unfounded -- of the communicable diseases tribal members were thought to carry. Despite these communities efforts, the Little Shell established "communities" outside of these towns with names such as "Hill 57" and Moccasin Flats". There they lived in abject poverty, forgotten by the federal government and rejected by the non-Indian communities where they were forced to live.

## THE LITTLE SHELL TODAY

Hill 57 and Moccasin Flats are gone. Today the Little Shell are an influential, organized presence in Montana. Because of their history, tribal membership is not easily documented. But diligence and patience has resulted in the enrollment of roughly 4,000 members with over 3,000 living in Montana. The Montana members are primarily located in the Great Falls area, but other tribal members live near Havre, Cut Bank, Conrad, Billings, and Dodson.

The Little Shell have an active tribal government. A tribal council meets regularly, and each quarter, the council meets with district representatives in various locations around the state. Council members are elected every two years with a tribal chair elected every four years. Despite a lack of financial resources to support a tribal council, council and district meetings are usually marked by 100% attendance. Little Shell leaders participate as equal partners in the Montana-Wyoming Tribal Leaders' Council. The state of Montana recognizes the Little Shell Tribe and provides some limited health and educational benefits, including fee waivers for Little Shell students who wish to attend a unit of the Montana University System. State Indian hiring preference laws also apply to Little Shell tribal members.

## WHAT FEDERAL RECOGNITION WILL BRING

Federal recognition will bring long-awaited benefits and services to the Little Shell people. They will be entitled to all of the benefits given to Indian people in this country from child welfare to their own court system. They will also have direct access to the Bureau of Indian Affairs for tribal administration services. But before money can be received, the Little Shell tribal council must establish programs to administer the funds that will flow to them. They will need to acquire a land base from which to operate their government and programs. The Tribe is currently looking at 10,000 acres near Great Falls. Because tribal members are dispersed across the state, satellite offices may have to be built in order to bring the government benefits to all of the Tribe's members. The possibility exists that land belonging to federal agencies, such as the Forest Service or the Bureau of Land Management, may be available. Recognition will also bring the opportunity to participate in a treaty settlement that required the beneficiaries to be members of a federally-recognized Indian tribe. This settlement could bring up to \$2.4 million to the Little Shell Tribe for economic development and tribal administration.

While the tangible benefits of recognition will bring great relief to tribal members, the intangible benefits are just as important. For many years, the Little Shell have suffered debilitating problems stemming from a lack of self-esteem. Being landless and non-recognized have only exacerbated these problems. Unaccepted by both the white and the Indian community, Little Shell members have struggled to maintain their equilibrium and pursue their dream of recognition. That dream is now within reach. While the Tribe has qualified for recognition, it must wait for nine more months while the federal government seeks public comment on recognition. However, this is viewed as a mere formality. No tribe that has qualified for recognition has ever been rejected as a result of public comments. However, it will be almost a year before money begins flowing to the Tribe.

This November, the Little Shell will hold tribal council elections. This will be the most momentous election for the Tribe, for the leaders elected in November will be responsible for acquiring land, setting up services, building offices, and determining the future direction of the Tribe.

When she was five years old, Mary Jane Miller's father guided her hand as she signed a petition asking for federal recognition for her tribe. Fifty-five years later, Miller proclaimed, "For the first time in my life I can say I'm an Indian. This is the most important day of my life."



## INTERIM CALENDAR

UNLESS OTHERWISE SPECIFIED,  
ALL ROOM DESIGNATIONS ARE IN THE CAPITOL BLDG.

### AUGUST

August 2, State Administration, Public Retirement Systems, and Veterans' Affairs, Western Montana College, Dillon

August 3-4, State Administration, Public Retirement Systems, and Veterans' Affairs, Room 102

August 4, Indian Affairs Subcommittee, Room 152, 10 a.m.

August 17, Children, Families, Health, and Human Services Committee

August 17, Debt Limit Subcommittee, Room 172, 1:30 p.m.

August 18, Revenue and Taxation Committee, Room 172, 8:30 a.m.

August 24-25, Business, Labor, and Agriculture Committee, Room 152

August 24-25, Law, Justice, and Indian Affairs Committee

### SEPTEMBER

September 4, Labor Day, Holiday

September 8, Education and Local Government Committee, Room 102

September 8, Judicial Redistricting Subcommittee, Room 137

September 14-15, State Administration, Public Retirement Systems, and Veterans' Affairs Committee

September 15, Public Information Subcommittee

September 15, Legislative Council

September 22, Districting and Apportionment Commission









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